



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: MARCH 08, 2023

IN THE MATTER OF:

Appeal Board No. 626829

PRESENT: JUNE F. O'NEILL, MEMBER

In Appeal Board Nos. 626828, 626829 and 626830, the Commissioner of Labor appeals from the decisions of the Administrative Law Judge filed November 25, 2022, which overruled the initial determinations holding the claimant ineligible to receive benefits, effective August 29, 2022, to September 4, 2022, on the basis that the claimant did not comply with work search requirements; charging the claimant with an overpayment of \$504 in benefits recoverable pursuant to Labor Law § 597 (4), and reducing the claimant's right

to receive future benefits by 8 effective days; and charging a civil penalty of \$100 on the basis that the claimant made willful misrepresentations to obtain benefits.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. The claimant asserted for the first time at the hearing that he did not receive the request to provide his work search efforts because his apartment number was not included in the mailing address used by the Department of Labor. Further testimony and evidence should be taken with respect to the mailing address provided by the claimant to the Department of Labor when he filed his original claim for benefits, as well as what address was used on the initial determinations and the Notice of Hearing for the November 23, 2022 hearing held in this matter. The Commissioner of Labor is directed to be represented at the remand hearing for the purpose of providing

testimony and evidence in this regard and in support of the initial determinations issued in this case. This shall include, but shall not be limited to, the steps that the claimant was required to take in order to conduct a satisfactory search for work and to document same, and how he was made aware of them. In addition, the relevant pages of the Claimant Handbook, contained in the hearing file, should be entered into after the appropriate confrontation.

The parties may produce any other relevant witnesses or documents. The Judge may take any other testimony and evidence necessary to decide the issues.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge is rescinded; and it is further

ORDERED, that the case shall be remanded to the Hearing Section to hold a hearing upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

JUNE F. O'NEILL, MEMBER